

## Offences under the *Legal Profession Uniform Law Application Act 2014 (Vic)* and the *Legal Profession Uniform Law (Victoria)*

	Offences under the <i>Legal Profession Uniform Law Application Act 2014 (Vic)</i>	Section	Penalty <sup>1</sup>
1	A Victorian Legal Services Board member failing to declare (as soon as practicable after becoming aware of the relevant facts) the nature of an apparent conflict of interest	s 40(1)	5 penalty units
	<b>Trust Accounts</b>		
2	An approved clerk failing to comply with rules for the receipt and handling of trust money made by the Victorian Bar under s 90 (See Legal Profession (Approved Clerks Trust Account) Rules 2015)	s 90	60 penalty units
	Professional Indemnity Insurance		
3	An Legal Practitioners' Liability Committee member failing to declare (as soon as practicable after becoming aware of the relevant facts) the nature of an apparent conflict of interest	s 110(1)	10 penalty units
4	An LPLC member (or former member) recording, disclosing or communicating information acquired in performing functions or duties or exercising powers under the Act, except in accordance with s 112	s 112(1)	60 penalty units
	<b>Fidelity Cover</b>		
5	An employer failing to reimburse (within time) a fidelity fund contribution or levy paid by an employee	s 132(2)	120 penalty units

<sup>1</sup> • 1 penalty unit = \$151.67 (from 1 July 2015 – to be increased to \$155.46 from 1 July 2016)

• Breaches of any sections of the Application Act (including those not in this list) are capable of constituting unsatisfactory professional conduct or professional misconduct under s298 of the *Legal Profession Uniform Law Application Act 2014 (Vic)*

	Offences under the Legal Profession Uniform Law (Victoria)	Section	Penalty <sup>2</sup>
	<b>Unqualified Legal Practice</b>		
1	Engaging in legal practice by unqualified entities	s 10(1)	<b>250 penalty units or imprisonment for 2 years, or both</b>
2	Advertising or representing, or doing anything that states or implies, an entity's entitlement to engage in legal practice when it is an unqualified entity	s 11(1)	250 penalty units
3	A director, partner, officer, employee or agent of an entity advertising or representing, or doing anything that states or implies, that the entity is entitled to engage in legal practice, when it is not a qualified entity	s 11(2)	50 penalty units
	<b>Admission to the Australian Legal Profession</b>		
4	A person whose name is on the Supreme Court roll for this jurisdiction failing to give written notice to the designated local roll authority of the removal of their name from the Supreme Court roll for another jurisdiction	s 24(1)	50 penalty units (Civil penalty)
5	A person failing to give written notice to the designated local roll authority of a recommendation made by an authority of tribunal that the person's name be removed from the Supreme Court roll for this jurisdiction	s 24(2)	50 penalty units (Civil penalty)
	<b>Law Practices – General Provisions</b>		
6	Causing or inducing, or attempting to cause or induce, a law practice or legal practitioner associate of a law practice to contravene this Law, the Uniform Rules or other professional obligations	s 39	100 penalty units
	<b>Australian Legal Practitioners</b>		
7	A holder of an Australian practising certificate granted in this jurisdiction failing to comply with the conditions of the certificate	s 54	100 penalty units (Civil penalty)

<sup>2</sup> • 1 penalty unit = \$151.67 (from 1 July 2015 – to be increased to \$155.46 from 1 July 2016)

• Breaches of any sections of the Application Act (including those not in this list) are capable of constituting unsatisfactory professional conduct or professional misconduct under s298 of the *Legal Profession Uniform Law Application Act 2014* (Vic)

	<b>Foreign Lawyers</b>		
8	A foreign lawyer who does not hold a current Australian registration certificate maintaining an office in this jurisdiction for the purpose of practising foreign law in this jurisdiction, or practising foreign law in this jurisdiction as a partner, director or other principal of a law practice	s 60(3)	250 penalty units
9	A holder of an Australian registration certificate granted in this jurisdiction failing to comply with the conditions of the certificate	s 68	100 penalty units (Civil penalty)
	<b>Variation, Suspension and Cancellation of, and Refusal to Renew, Certificates</b>		
10	A holder of an Australian practising certificate or an Australian registration certificate failing to give written notice to the designated local regulatory authority of the removal of their name from the Supreme Court roll for another jurisdiction	s 80(1)	50 penalty units (Civil penalty)
11	A holder of an Australian practising certificate or an Australian registration certificate failing to give written notice to the designated local regulatory authority of a recommendation made by an authority or tribunal that the person's name be removed from the Supreme Court roll for this jurisdiction; or the person's certificate be suspended or cancelled; or a certificate not be granted to the person for a period; or conditions be imposed on the person's certificate	s 80(2)	50 penalty units
	<b>Incorporated and Unincorporated Legal Practices</b>		
12	An entity engaging in legal practice in this jurisdiction as a law practice (incorporated or unincorporated legal practice) before giving notice of its intention to do so to the designated local regulatory authority (within the period specified in the Uniform Rules)	s 104(2)	50 penalty units (Civil penalty)
13	A law practice (incorporated or unincorporated legal practice) failing to give the designated local regulatory authority notice that it has ceased to engage in legal practice in this jurisdiction (within the period specified in the Uniform Rules)	s 104(3)	50 penalty units (Civil penalty)
14	A law practice (incorporated or unincorporated legal practice) failing to have any authorised principals for a period exceeding 7 days	s 106(1)	50 penalty units (Civil penalty)
15	A law practice (incorporated or unincorporated legal practice) failing to notify the designated local regulatory authority within 7 days that it has ceased to have any authorised principals	s 106(2)	50 penalty units (Civil penalty)
16	A law practice (incorporated or unincorporated legal practice) providing legal services in this jurisdiction during any period it is non-compliant with the authorised principal requirements under s 106	s 106(3)	250 penalty units (Civil penalty)

	<b>Community Legal Services</b>		
17	A community legal service, or its governing body, failing to have any supervising legal practitioners for a period exceeding 7 days	s 117(2)	250 penalty units
	<b>Disqualifications</b>		
18	A law practice having a lay associate whom any principal or other legal practitioner associate of the law practice knows to be a disqualified person or a person who has been convicted of a serious offence (defined in s 6(1)), unless the lay associate is approved by the designated local regulatory authority under s 121(2)	s 121(1)	100 penalty units
19	A disqualified person or person who has been convicted of a serious offence (defined in s 6(1)) seeking to become a lay associate of a law practice without informing the law practice of the disqualification or conviction	s 122(1)	100 penalty units (Civil penalty)
	<b>Trust Money and Trust Accounts</b> <b>note</b> – this Part applies to approved clerks, with modifications, as if a reference in this Part to a ‘law practice’ were a reference to an approved clerk (see s 89 of the <i>Legal Profession Uniform Law Application Act 2014 (Vic)</i> )		
20	A law practice who receives or holds money that is non-trust money (other than money for the payment of legal costs due to the law practice) failing to give written notice to the person who provided the money that the money will not be treated as trust money and is not subject to the provisions relating to trust money in this Law or the Uniform Rules and a claim against the fidelity fund of this jurisdiction cannot be made in respect of the money	s 134(1)	100 penalty units (Civil penalty)
21	A law practice failing to deal with trust money in accordance with this Law and the Uniform Rules	s 135(1)	50 penalty units (Civil penalty)
22	A law practice, that receives trust money (other than controlled money or transit money received in a form other than cash), failing to maintain a general trust account in this jurisdiction	s 136(1)	50 penalty units (Civil penalty)
23	A law practice failing to deposit trust money (other than cash) into the law practice’s general trust account as soon as practicable after receiving it, unless not required under s 137	s 137	100 penalty units (Civil penalty)
24	A law practice failing to hold trust money deposited in the law practice’s general trust account exclusively for the person on whose behalf it is received or to disburse it only in accordance with a direction given by the person	s 138(1)	50 penalty units (Civil penalty)

25	A law practice failing to account for trust money as required by the Uniform Rules	s 138(3)	50 penalty units (Civil penalty)
26	A law practice failing to deposit controlled money in the account specified in the written direction relating to the money, as soon as practicable after receiving it	s 139(1)	50 penalty units (Civil penalty)
27	A law practice failing to hold controlled money deposited in a controlled money account exclusively for the person on whose behalf it was received	s 139(2)	50 penalty units (Civil penalty)
28	A law practice that disburses money deposited in a controlled money otherwise than in accordance with written directions, subject to a court order or as authorised by law	s 139(3)	50 penalty units (Civil penalty)
29	A law practice failing to maintain a controlled money account and account for controlled money as required by the Uniform Rules	s 139(4)	50 penalty units (Civil penalty)
30	A law practice failing to keep a written direction mentioned in s 139 for 7 years	s 139(5)	50 penalty units (Civil penalty)
31	A law practice failing to ensure a controlled money account is used for the deposit of controlled money received on behalf of only the person on whose behalf it was received, except to the extent that the Uniform Rules otherwise permit	s 139(6)	50 penalty units (Civil penalty)
32	A law practice that has received transit money failing to pay or deliver the money as required by the instructions relating to the money	s 140(1)	50 penalty units (Civil penalty)
33	A law practice failing, in respect of transit received, to record and keep brief particulars sufficient to identify the relevant transaction and any purpose for which the money was received	s 140(2)	50 penalty units (Civil penalty)
34	A law practice failing to keep the particulars mentioned in s 140(2) for 7 years	s 140(3)	50 penalty units (Civil penalty)
35	A law practice failing to ensure that trust money that is the subject of a power is dealt with only in accordance with that power	s 141(1)	50 penalty units (Civil penalty)

36	A law practice failing to account for the money subject to a specific power in the way prescribed by the Uniform Rules	s 141(2)	50 penalty units (Civil penalty)
37	A law practice failing to deal with trust money (other than cash) in accordance with written directions	s 142(1)	50 penalty units (Civil penalty)
38	A law practice failing to keep a written direction about trust money for 7 years after the matter is finalised	s 142(2)	50 penalty units (Civil penalty)
39	A law practice failing to deposit all trust money received in the form of cash (other than controlled money) in the law practice's general trust account, even if it has a written direction to deal with it in some other way	s 143(1)	50 penalty units (Civil penalty)
40	A law practice failing to deposit controlled money received in the form of cash in a controlled money account and deal with it in accordance with the Uniform Rules	s 143(2)	50 penalty units (Civil penalty)
41	A law practice withdrawing trust money from a general trust account otherwise than by cheque or electronic funds transfer	s 144(1)	50 penalty units (Civil penalty)
42	A law practice mixing trust money with other money without authority to do so from the designated local regulatory authority and in accordance with any conditions imposed	s 146	50 penalty units (Civil penalty)
43	A law practice failing to keep trust records in permanent form	s 147(1)	50 penalty units (Civil penalty)
44	A law practice failing to keep trust records in accordance with s 147(2)	s 147(2)	50 penalty units (Civil penalty)
45	A law practice knowingly receiving money or recording receipt of money in trust records under a false name	s 147(3)	50 penalty units (Civil penalty)
46	A law practice, that is aware that a person on whose behalf trust money is received by the law practice is commonly known by more than one name, failing to ensure that all trust records record all names by which the person is known	s 147(4)	50 penalty units

47	A law practice, an Australian legal practitioner or any other person, without reasonable excuse, causing a deficiency in any trust account or trust ledger account or failure to pay or deliver trust money	s 148	<b>500 penalty units or imprisonment for 5 years, or both</b>
48	An ADI failing to give the designated local regulatory authority any reports about trust accounts required under, and in accordance with, the Uniform Rules	s 149(3)	100 penalty units (Civil penalty)
49	An ADI at which a trust account is maintained failing to provide (without charge) to an investigator or external examiner access to, or copies of, any records relating to the trust account or trust money deposited in it	s 149(4)	100 penalty units (Civil penalty)
50	A law practice receiving trust money without a principal of the law practice holding a practising certificate authorising such receipt or the law practice being otherwise authorised to receive trust money under the Uniform Rules	s 150	250 penalty units (Civil penalty)
51	A law practice failing to notify the designated local regulatory authority of the details required by the Uniform Rules of each account maintained by an ADI in which the law practice or any legal practitioner associate of the law practice holds money entrusted to the law practice or legal practitioner associate	s 151(1)	50 penalty units (Civil penalty)
52	A legal practitioner associate of a law practice, an ADI, an external examiner or another entity of a kind specified in the Uniform Rules failing to give written notice(as soon as practicable) of an irregularity in any of the law practice's trust accounts or trust ledger accounts to the designated local regulatory authority, upon becoming aware of it	s 154(1)	For a corporation – 250 penalty units For an individual – 50 penalty units (Civil penalty)
53	An Australian legal practitioner failing to give written notice (as soon as practicable) if they believe on reasonable grounds that there is an irregularity with the receipt, recording or disbursement of any trust money received by a law practice of which the practitioner is not a legal practitioner associate	s 154(2)	50 penalty units (Civil penalty)
54	A law practice failing to have its trust records externally examined once in each financial year by a suitably qualified person appointed in accordance with the Uniform Rules as an external examiner	s 155(1)	50 penalty units (Civil penalty)
55	An examiner disclosing information in the report or acquired in carrying out the external examination, unless permitted to do so under s 159(3) or s 462	s 159(2)	50 penalty units (Civil penalty)
56	An investigator disclosing information contained in the report or acquired in the course of an investigation, except in accordance with s 165(2) or s 462	s 165(2)	50 penalty units (Civil penalty)

	<b>Legal Costs</b>		
57	A law practice entering into a conditional costs agreement that contravenes s 182 or the Uniform Rules relating to uplift fees	s 182(4)	100 penalty units (Civil penalty)
58	A law practice entering into a prohibited contingency fee costs agreement	s 183(1)	100 penalty units (Civil penalty)
	<b>Professional Indemnity Insurance</b>		
59	An Australian legal practitioner engaging in legal practice in this jurisdiction without holding or being covered by an approved insurance policy for this jurisdiction which covers legal practice	s 211	100 penalty units (Civil penalty)
60	An incorporated legal practice engaging in legal practice in this jurisdiction without holding an approved insurance policy for this jurisdiction which covers the legal practice in which it is engaged	s 212	100 penalty units (Civil penalty)
61	A community legal service that is a corporation engaging in legal practice in this jurisdiction without holding an approved insurance policy for this jurisdiction which covers the community legal service and each Australian legal practitioner who engages in legal practice for the community legal service	s 213(1)	100 penalty units (Civil penalty)
62	A community legal service that is not a corporation engaging in legal practice in this jurisdiction without each Australian legal practitioner who engages in legal practice for the community legal service holding or being covered by an approved insurance policy for this jurisdiction	s 213(2)	100 penalty units (Civil penalty)
63	An Australian-registered foreign lawyer who does not hold or is not covered by an approved insurance policy failing to provide a disclosure statement in writing to each client before being retained for legal services in this jurisdiction stating whether the lawyer is covered by other professional indemnity insurance and the nature/extent of that insurance	s 214	100 penalty units (Civil penalty)
	<b>Business Management and Control</b>		
64	A law practice promoting or operating a managed investment scheme or providing a service or conducting a business of a kind specified in the Uniform Rules for the purposes of this section	s 258(1)	250 penalty units (Civil penalty)
65	A law practice providing legal services in relation to a managed investment scheme, where an associate of the law practice has an interest in the scheme or the responsible entity for the scheme	s 258(3)	250 penalty units (Civil penalty)



66	A law practice, in its capacity as the legal representative of a lender or contributor, negotiating the making or acting in respect of a mortgage, except in accordance with s 258(4)	s 258(4)	250 penalty units (Civil penalty)
	<b>Supervisors of Trust Money</b>		
67	An ADI failing to ensure that no funds are withdrawn or transferred from a trust account after that ADI has been served with a notice of the appointment of a supervisor (until the appointment is terminated), except in accordance with s 330(1)	s 330(1)	100 penalty units (Civil penalty)
68	A person (other than an ADI, the supervisor or a nominee of the supervisor) dealing with any of the law practice's trust money, signing any cheque or instrument drawn on a trust account or authorising the withdrawal or transfer of funds from a trust account after that person has been served with a notice of the appointment of a supervisor (until the appointment is terminated)	s 330(2)	100 penalty units (Civil penalty)
	<b>Managers</b>		
69	A legal practitioner associate of a law practice, who is specified or referred to in a notice of appointment of a manager for a law practice, participating in the affairs of the practice after that law practice has been served with that notice (until the appointment is terminated), except under the direct supervision of the manager	s 335(1)	100 penalty units
70	An ADI failing to ensure that no funds are withdrawn or transferred from a trust account after that ADI has been served with a notice of the appointment of a manager (until the appointment is terminated), except in accordance with s 335(2)	s 335(2)	100 penalty units (Civil penalty)
71	A person dealing with any of the law practice's trust money, signing any cheque or instrument drawn on a trust account or authorising the withdrawal or transfer of funds from a trust account after that person has been served with a notice of the appointment of a manager (until the appointment is terminated)	s 335(3)	100 penalty units
	<b>Receivers</b>		
72	A legal practitioner associate of a law practice, who is specified or referred to in a notice of appointment of a receiver for a law practice, participating in the affairs of the practice after that law practice has been served with that notice (until the appointment is terminated)	s 342(1)	100 penalty units
73	An ADI failing to ensure that no funds are withdrawn or transferred from a trust account after that ADI has been served with a notice of the appointment of a receiver (until the appointment is terminated), except in accordance with s 342(2)	s 342(2)	100 penalty units (Civil penalty)

74	A person (other than an ADI, the receiver or manager for a law practice or a nominee of the receiver or manager) dealing with any of the law practice's trust money, signing any cheque or instrument drawn on a trust account or authorising the withdrawal or transfer of funds from a trust account after that person has been served with a notice of the appointment of a receiver (until the appointment is terminated)	s 342(3)	100 penalty units
75	A person failing to deliver regulated property to the receiver if that person has notice that a receiver has been appointed and is under an obligation to deliver regulated property	s 346(2)	100 penalty units (Civil penalty)
76	A person failing to provide documents or information to a receiver if required under s 348(1)	s 348(3)	50 penalty units (Civil penalty)
77	A person destroying, concealing, removing or delivering regulated property (with the intention of defeating the operation of Part 6.5 or the Uniform Rules) of a law practice for which a receiver has been or is likely to be appointed	s 353	<b>500 penalty units or imprisonment for 5 years, or both</b>
	<b>General</b>		
78	An ADI failing to disclose (without charge) to, and on the request of, an external intervener, whether a law practice or an associate of the practice maintains or has maintained an account at the ADI and details identifying such accounts	s 361(1)	100 penalty units (Civil penalty)
79	An ADI failing to produce (without charge) any records relating to accounts or money deposited in accounts maintained (or which have been maintained) at the ADI to an external intervener and to provide the intervener with full details of transactions relating to such accounts or money	s 361(2)	100 penalty units (Civil penalty)
80	An ADI failing to disclose (without charge) to an intervener, where the intervener believes that trust money has, without authorisation of the person who entrusted the trust money to the law practice been deposited into an account of a third party who is not an associate of the law practice, whether or not a person specified maintains or has maintained an account at the ADI and the details of any such account	s 361(3)	100 penalty units (Civil penalty)
81	An external intervener disclosing information obtained as a result of his or her appointment except in accordance with s 362	s 362(1)	50 penalty units (Civil penalty)
82	A person obstructing (without reasonable excuse) an external intervener exercising a function under this Law	s 364	50 penalty units (Civil penalty)

	<b>Requirements relating to documents, information and other assistance</b>		
83	A person failing (without reasonable excuse) to comply with a requirement of an investigator under s 370(1)	s 370(2)	50 penalty units (Civil penalty)
84	A person failing (without reasonable excuse) to comply with a requirement of an investigator under s 371(1) or (2)	s 371(3)	50 penalty units (Civil penalty)
	<b>Miscellaneous</b>		
85	A person obstructing (without reasonable excuse) an investigator exercising a function under this Law	s 387(1)	50 penalty units
86	A person failing to comply (without reasonable excuse) with a requirement of an investigator while on premises under s 375(1)(j)	s 387(2)	50 penalty units
87	A lawyer misleading an investigator	s 388(2)	100 penalty units
	<b>General</b>		
88	A relevant person disclosing information obtained in the execution or administration of this Law or the Uniform Rules, unless permitted to do so under s 462(2)	s 462(1)	50 penalty units (Civil penalty)